



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,521	12/21/2001	Masanori Fukada	7372/72252	2143

22242 7590 09/03/2003

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
----------	--------------

1773

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-7

Office Action Summary

Application No.

10/024,521

Applicant(s)

FUKADA ET AL.

Examiner

D. S. Nakarani

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 20 (last line), the phrase "kg/m²" should read -- Kg/m³ --.

Claim 4, line 2, the phrase " 30 mm" should read -- 30 nm -- (see original claim 4).

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (JP 11-192661) in view of Brambilla (U. S. Patent 5,916,692).

In the following action recited paragraph numbers for JP 11-192661 document is of computer-translated copy (enclosed).

Suzuki et al disclose a blown film, which can be a multi-layer or a single layer (0001) comprising a layer of linear low-density polyethylene produced by an ionic polymerization method and having a cold xylene-soluble portion in term of % by weight which appears to fall within claimed amount of equation (2) (Abstract). Suzuki et al do not disclose three layer structure of a multilayer film having a middle layer made of a blend of linear low density polyethylene and low density polyethylene. Suzuki et al's disclosed polyethylene layer results superior in low odor, low taste transfer and

Art Unit: 1773

mechanical properties (0007). Suzuki et al suggest addition of low density polyethylene to their polyethylene for improving melt tension and transparency ((0018) and col. 4 lines 37-39 of U. S. Patent 6,274,691 B1). Suzuki et al disclose commercial polyethylene such as SUMIKASENE FV 403 ((0026) and col. 6 lines 40-49 of U. S. Patent 6,274,691 B1) which appears to be same as SUMIKATHENE FV 403 of instant disclosure (Example 1). Therefore, all properties not disclosed by Suzuki et al are deemed to be inherently there unless shown otherwise.

Brambilla teaches a multi-layer film having outer adhesive layers of linear low-density polyethylene made using metallocene catalyst (col. 3, lines 50-58). Brambilla suggest middle layer (i.e., main layer) made of a blend of a linear low density polyethylene and a low density polyethylene for transparency and improved physical properties (col. 2, lines 21-26, col. 4 lines 21-30 and claims 1-6). Brambilla suggest outer adhesive layers of linear low-density polyethylene with density $0.895\text{-}0.910\text{ g/cm}^3$ for adhesive properties (col. 2 lines 42-50 and claims 2 and 3) and linear low density polyethylene with density of about 0.930 g/cm^3 for sliding properties (col. 2 lines 51-53).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of this invention made to utilize disclosure of Brambilla in the invention of Suzuki et al to use middle layer (main layer) of Brambilla for transparency and physical properties and outer layers of linear low density polyethylene such as SUMIKASENE FV 403 for low odor, low taste transfer, heat resistance and superior in mechanical properties ((0022 and 0023) and col. 5 lines 40-67 of U. S. Patent 6,274,691 B1).

Art Unit: 1773

4. Applicant's arguments filed June 26, 2003 have been fully considered but they are not persuasive. In reference to rejection of claims 1-4 under 35 USC § 103(a) as being unpatentable over Suzuki et al (U. S. Patent 6,274,691 B1) in view of Brambilla (U. S. Patent 5,916,692), applicants mainly argue that Suzuki et al document may not be prior art as per 35 USC § 103(c). Suzuki et al do not disclose a three layer structure of a multilayer film having middle layer made of a blend of linear low density polyethylene and low density polyethylene. Suzuki et al neither disclose nor would it suggest the density and crystallization temperatures for polymers used for a film as described in this application. Applicant further state that Suzuki et al do not disclose an improvement in transparency (col. 4 lines 35-40) but that would greatly decrease strength (e. g., tear strength). Since Suzuki et al do not disclose characteristics and properties of a layer, Examiner's Declaration seems to be in order.

These arguments are unpersuasive because Suzuki et al reference is published before the filing date of this application, therefore it is applicable under 35 USC 102(a). Therefore 35 USC § 103(c) does not apply. Suzuki et al clearly suggest a single layer or multilayer film generically disclosed multi-layer film includes two layer film, three layer film four layer film --- etc. Suzuki et al clearly state at column 4 lines 33-39, "The ethylene polymer used in the present invention may be replaced by a resin composition containing ethylene polymer and, if necessary, various other resins, Examples of the other resin includes olefin resins such as High pressure low-density polyethylene for the purpose of improving the melt tension and transparency, high density polyethylene for the purpose of improving the rigidity ---". Further Brambilla also teaches "LDPE (low

Art Unit: 1773

density polyethylene) is also used in mixture with LLDPE (linear low density polyethylene) to improve the transparency (col. 4 lines 20-22). Therefore it is not necessary for the Examiner to provide Declaration.

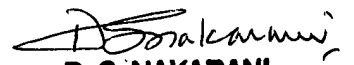
There is no evidence provided showing that Suzuki et al's Sumikasen E FV 403 (metallocene PE 2: density = 0.919 g/cm³, MI = 4 g/10 minutes) is different than the SUMIKATHEN E FV 403 used for surface layer in Example 1 of present application.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is 703-308-2413. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J. Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

D. S. Nakarani/mn
September 2, 2003


D. S. NAKARANI
PRIMARY EXAMINER